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Office for People With
Developmental Disabilities



Office for People With
Developmental Disabilities



NYS Site Selection

A guide to the process for establishing
community residences for people with
developmental disabilities

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Community-based housing, or group homes, offer different levels of support to people with developmental disabilities based upon each person's specific needs. The site selection process for group homes is governed by Section 41.34 of the New York Mental Hygiene Law. Service provider agencies must follow the site selection process as outlined in law to establish a group home.

New York's Site Selection Law

The Notification Process – The sponsoring agency must inform the chief executive officer of a municipality that it proposes to establish a group home at a specific address.

The municipality has 40 days to make a decision. Public hearings may be held, but they are not mandatory. The municipality will waive its right to object to the site if it fails to respond to the sponsoring agency's 40-day notice letter by the deadline.

There are three options the municipality can choose: (1) approve the site, (2) suggest alternatives, or (3) object to the site on the grounds that the neighborhood is already saturated with sites.

1. Approve site – The municipality can approve the site selected by the sponsoring agency.

2. Suggest Alternatives:

- **Alternatives Accepted** – The sponsoring agency approves the alternative site suggested by the municipality.
- **Alternative Rejected** – If the municipality proposes an alternative site the sponsoring agency finds unacceptable, the municipality then has 15 additional days to propose other alternatives.

3. Object Because Saturated – It is up to the municipality to prove that a community residence should not be built because there is already such a concentration of sites that a new one would substantially alter the character and nature of the community.

Resolving Disputes

Disputes can occur only if: (1) the municipality objects to the site because it is already saturated, or (2) the sponsoring agency objects to the alternative site proposed.

Commissioner's Hearing – The first step in resolving disputes is a hearing before the commissioner. At the hearing the commissioner must determine if there is a need for the proposed residence. If the commissioner determines that the character of the neighborhood would be substantially altered, he, or she must sustain the objection. Determination is made within 30 days.

Judicial Review – The commissioner's action may be reviewed through an Article 78 proceeding, according to the New York Civil Procedure Law and Rules.

A sponsoring agency is not able to set up a group home unless every necessary step is followed. If a community's objection is upheld by a commissioner's ruling or through judicial review, the site may be rejected.

Important Terms

An individualized residential alternative, or group home, is a residence of 14 or fewer beds either operated or licensed by the Office For People With Developmental Disabilities (OPWDD). There are two types: supervised and supportive residences.

A **Supervised** residence provides around-the clock staff, while a **Supportive** residence allows more independent living under periodic supervision. All supervised residences from one to 14 beds and supportive residences with four to 14 beds must go through the site selection process.

A **Sponsoring Agency** is the person, service provider agency, or governmental unit that plans to establish a community residence.

A **Municipality** is either:

- A village;
- A town (which is affected only if the proposed community residence is to be located outside any village within the town);
- A city (except New York City); or
- A community board district in the City of New York

Once a provider has successfully completed the site selection process for a home, it must be considered a **Family Unit** according to appropriate local laws and ordinances.